REMEDIES SYLLABUS

SIU Law
Professor Andrew Pardieck
Spring Semester 2017, Law 555-3
Mon/Wed/Fri 11:00 a.m. to 11:50 a.m., Rm. 202

I. COURSE INTRODUCTION

This course is an introduction to the law of Remedies. It is a survey course that introduces contemporary problems in compensatory and punitive damages, injunctions, restitution, declaratory judgments, and enforcement of orders and judgments. These subjects are tested on many state bar exams.

In terms of course objectives, by the end of this course, students will be able to evaluate fact patterns and assess what remedies come closest to “making the injured party whole.” Students will be able to identify the remedial issues raised in common fact patterns, analyze the same, and offer reasoned conclusions about the legal viability of various remedies. Finally, students will analyze the limitations of legal remedies—when and why the civil justice system fails to make an injured party whole. Students will examine both the limitations inherent in the legal process and those adopted based on public policy.

II. COURSE MATERIALS

A. Required Texts


DOUGLAS LAYCOCK, MODERN AMERICAN REMEDIES: CASES AND MATERIALS (SUPPLEMENT), available on TWEN.

Federal Rules of Civil Procedure, United States Code, Uniform Commercial Code, and various Restatements, as cited in the text. All are available on Westlaw or Lexis. For ease of reference, excerpts from the UCC and Restatements are also available on TWEN.

B. Recommended Reading
JAMES M. FISCHER, UNDERSTANDING REMEDIES (2006);
DOBBS' LAW OF REMEDIES: DAMAGES - EQUITY – RESTITUTION (1993);
RICHARD L. HASEN, EXAMPLES & EXPLANATIONS: REMEDIES, THIRD EDITION (2012);
WEAVER, SHOBEN AND KELLY'S PRINCIPLES OF REMEDIES LAW, 2D (2011).

C. TWEN

The TWEN site for this course contains required reading, including a current copy of the syllabus and supplementary materials for this course.

III. GRADES

Grades are based on a final exam (70%); other written work product (20%); and classroom attendance and participation (10%).

A. Attendance & Participation (10%)

It is incumbent upon you to read the material, come to class well prepared, and participate. Every student who does so will receive ten (10) attendance & participation points; those who do not will receive fewer or no points.

For the purposes of the participation grade, I will take illness or conflicting work commitments explained in advance into consideration in evaluating lack of preparation.

Students who attend but are not prepared for class and have not provided a valid reason in advance will be counted absent. Similarly, students who attend, but come in late will be counted absent.

I emphasize preparation and attendance here because we will explore the law of Remedies through the Socratic Method. The goal for each discussion is to further your understanding of the law, and then practice applying it to different fact-patterns and articulating well-reasoned legal arguments. None of that happens without adequate preparation and a meaningful discussion.

With regard to absences, this course adheres to SIU Law’s attendance policy: attendance is required in all classes. If you accumulate more than
nine (9) class absences, you will be subject to the sanctions set out in the law school rules. Those sanctions include mandatory withdrawal from the course.

Please note neither the law school nor the ABA’s attendance rules recognize “excused absences.” Save your absences for sick days and work conflicts. If you have a disability requiring accommodation see Disability Support Services. For contact and other information regarding Disability Support Services see infra Part VII.

B. Writing Exercises (20%)

You will be asked to complete two (2) bar exam-type writing assignments during the semester. They will each consist of one essay question. They will each take place as in-class, closed-book examinations with space limitations. Additional instructions will be provided in class.

C. The Exam (70%)

The final exam will be an in-class, closed-book final exam. The bar exam is also closed book. The goal here is to develop the skills necessary to remember and apply legal norms. This doesn’t require “memorizing” the rules. It does require understanding and being able to apply the standards the courts apply.

The exam itself will likely consist of some combination of multiple choice, short answer, and essay questions. The subject matter will include both material from the assigned readings and material discussed in class.

The final exam is cumulative. It will cover all the material assigned during the semester, including material that may have been the subject of an earlier, in-class writing exercise.

D. Grading

This course follows SIU Law’s grading policy. It will be graded on a curve, and, of necessity, subject to mandatory medians.

E. Laptop and Cell Phone Policy

1. Laptops
Laptops are not prohibited in this class. But I encourage you to consider bringing your text, printed supplements, a pen and paper to class—and leaving the laptop at home.

In April of 2016, the Wall Street Journal reported on one of many studies demonstrating that students who take handwritten notes outperform students who type their notes on a computer. Robert Lee Hotz, *The Power of Handwriting*, WALL ST. J. D1 (Apr. 5, 2016). Students who write their notes out longhand “appear to learn better, retain information longer, and more readily grasp new ideas.” *Id.* Those who write their notes longhand think more intensely about the material, in part, because writing is slower and forces one to choose what is important. *Id.*

2. **Cell Phones**

Cell phone use is prohibited in class unless used as part of an instructor-directed class exercise, e.g. completion of an online exercise. Whether you are using a laptop or cell phone, sending text messages, hanging out on Facebook, and the like distracts you and others around you.

IV. **CONTACT INFORMATION & OFFICE HOURS**

If I am in my office and the door is open, you and your questions are welcome. After class is usually a good time to catch me. Or you can email apardieck@law.siu.edu to set up a time. I will also have regular office hours on Monday from 2:30 p.m. to 4:30 p.m.

For those emailing, please note my response may not come immediately and it may be brief. The ulnar nerve in my left hand periodically objects to typing. Email aside, you have options. If you have questions by all means ask.

V. **COURSE ASSIGNMENTS**

The American Bar Association standards for accrediting law schools contain a formula for calculating the *minimum* amount of work that constitutes one credit hour.

According to ABA Standard 310(b)(1), “a “credit hour” is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty
instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time.”

This is a 3-credit hour class, meaning that we will spend three 50-minute blocks of time together each week. You should plan on spending a minimum of 2 hours preparing for each class. All told you should plan on spending at least an average of 9 hours per week (3 in class and 6 preparing for class) on Remedies course-related work. That said:

- The readings for the topics vary in length and complexity; we will not always cover one unit per class.
- Understanding the material will require reading through the assignment more than once.
- We will not cover every case and note in class. For the purposes of the exam, however, students are responsible for all assigned reading—not just the material discussed in class.

- The following is an outline for the first two sections the course. The remainder of the outline is, or will soon be, posted to TWEN.
- The assignment for the first class is to read and be prepared to discuss pp. 1-15.
- If you have questions about what to read for the next class, don’t hesitate to ask.

VI. COURSE OUTLINE PART I

Unit 1  

CHAPTER 1. INTRODUCTION  
The Role of Remedies et seq., pp. 1-6.

CHAPTER 2. PAYING FOR THE HARM: COMPENSATORY DAMAGES  

Unit 2  

Value as the Measure of the Rightful Position, pp. 16-27; Restatement sections cited in text. Notes in Supplement.

Unit 3  

Expectancy and Reliance as Measures of the Rightful Position, pp. 28-41; Notes in Supplement; UCC sections cited in text.

Unit 4  

Consequential Damages, pp. 41-53; Notes in Supplement; UCC sections cited in text.
Unit 5  Limits on Damages, pp. 53-68; Note in Supplement; UCC sections cited in text; Restatement section cited in text.

Unit 6  Avoidable Consequences, Offsetting Benefits, Collateral Sources & The Requirement of Certainty, pp. 68-88, 99-107; Note in Supplement; UCC sections cited in text.

Unit 7  Damages Where Value Cannot Be Measured: Personal Injury, pp. 108-121; Notes in Supplement.

CHAPTER 3. PUNITIVE DAMAGES

Unit 10  Punitive Damages: Common Law & Statute, pp. 171-184.


IN-CLASS WRITING EXERCISE NO. 1  COVERING CHAPTERS 1-3

VII. COURSE OUTLINE PART II

See Part II of the Syllabus posted on TWEN

VIII. FINAL EXAM

The final exam is currently scheduled for May 4, 2017, 8:15 to 11:15 a.m. Be sure to check the exam scheduled posted prior to exam period for any changes.

VII. FINAL NOTES

Make-Up Classes: Courses that meet on Monday must hold an additional class to make up for the class missed on the Martin Luther King Jr. Holiday. Time, date, and location to be announced.

Saluki Cares: The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-
5714, or siucares@siu.edu, http://salukicares.siu.edu/index.html. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.

Disability Policy: Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. http://disabilityservices.siu.edu/. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

Class Recording Policy: This class is not being recorded. Absent a disability-related accommodation arranged through the Associate Dean’s Office, you will not have access to a recording of the class. Absent advance approval of the instructor, audio or video recording by any student of any class is prohibited.

Emergency Procedures: Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in the Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.